IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 1011 OF 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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AMRELI DISTRICT PANCHAYAT - Petitioner(s)

Versus

HASMUKHBHAI GAURISHANKARBHAI RAJYAGURU - Respondent(s)

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Appearance :

Shri H.S. Munshaw for Petitioner(s).

Shri Ketan Shah for Shri Tushar Mehta for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 13/08/2007

ORAL JUDGMENT

The petitioner-employer, being aggrieved by the award dated 12th October, 1999 passed by the learned Labour Court, Amreli in

Reference No.328/1998 – Amreli (Old Reference No.140/94 – Bhavnagar), is before this Court with a submission that the respondent, having not proved that he had worked for 240 days in twelve calendar months preceding the date of retrenchment, could not be directed to be reinstated.

2. Shri Ketan Shah, learned Counsel for the respondent, however, submitted that under Article 227 of the Constitution of India, the High Court should not interfere in the finding of fact recorded by the learned Court below.

3. In the present case, the petitioners have proved that the respondent had worked for 59 days in the year 1986 and 97 days in the year 1987 and did not work after 27th September, 1987. If the entire work period of 1986-87 is added, then too, the respondent has not worked for 240 days. If he has not worked for 240 days, in accordance with Section 25-B of the Industrial Disputes Act, 1947, he would not be deemed to be in continuous service and consequently, he would not be entitled to protection under Section 25-F of the Act.

4. The petition deserves to and is, accordingly, allowed. The award passed by the learned Labour Court is quashed and set aside. Rule is made absolute. No costs.

[R.S.Garg, J.]

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